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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/683,706	02/05/2002	Michael John Curry	1049.001US1	6456

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EXAMINER

NGUYEN, VAN H

ART UNIT PAPER NUMBER

2194

DATE MAILED: 12/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/683,706

Applicant(s)

CURRY ET AL.

Examiner

VAN H. NGUYEN

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 September 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.


WILLIAM THOMSON
SUPERVISORY PATENT EXAMINER

DETAILED ACTION

1. Claims 1-20 are presented for examination.

Claim Rejections - 35 USC § 103

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
4. Claims 1-2, 8-14, and 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Budge et al.** (U.S.6,564,248) in view of **Bates et al.** (U.S.6,721,781).
5. **As to claim 12:**
 - a. Budge teaches the invention substantially as claimed including a method comprising:
 - (i) detecting when an event (*e.g., the RECORD button 610 is "pressed," that is, activated with a point and click operation of a mouse device; col.6, lines 1-25*) related to a predetermined application program (*e.g., operating system software; col.3, lines 16-42*) occurs;
 - (ii) in response to detecting when the event has occurred, an audio or video program (*e.g., video e-mail software 50 which provides for the creation of video e-mail messages and the transfer of those messages; col.3, lines 16-*

42 and fig. 6) presenting one or more audio or video controls for use in conjunction with the predetermined application program, such that the audio or video program encompassing the one or more audio or video controls (e.g., To begin recording a video e-mail message, the RECORD button 610... the STOP button 620... the SAVE VMail button 630... the SAVE file button 640... the PLAY button 650... the LOAD button 660 allows a user to select which stored message to watch, and the MAIL button 670 is pressed to immediately send a recorded message; col.6, lines 1-25 and fig.6).

- b. Budge does teach the predetermined application program and the audio or video program. Budge, however, does not explicitly teach the programs separate but integrate.
- c. Bates teaches the programs separate but integrate (*see fig.3 and the associated text*).
- d. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Bates and Budge because Bates's teaching would have provided the capability for accommodating the combination of the two separate programs within a single computing device, and therefore, proving compatibility for Budge's system.

6. As to claim 13:

Budge teaches integrating the one or more audio or video controls within a window of the predetermined application program (*fig.6 and associated text*).

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7. **As to claim 14:**

Budge teaches creating an audio or video program window through the operating system in which the one or more audio or video controls are located (*e.g., In addition to operating system software, the sending system PC 10 executes video e-mail software 50 which provides for the creation of video e-mail messages and the transfer of those messages; col.3, lines 37-42 and col.6, lines 1-25*).

8. **As to claim 19:**

Note the rejection of claim 12 above. Claim 19 is the same as claim 12, except claim 19 is a computer-readable medium claim and claim 12 is a method claim.

9. **As to claim 20:**

Budge teaches the predetermined application program comprises, among other things, an email program (*e.g., video e-mail software; col.3, lines 37-40*).

10. **As to claim 1:**

The rejection of claim 12 above is incorporated herein in full. Additionally, Budge further teaches: an operating system *col.3, lines 20-22*) and a user of the application program interacts with the video program as though the video program were part of the application program (*col.5, line 59-col.6, lines 25*).

11. **As to claim 2:**

Budge teaches the video program is integrated with the application program by detecting when an event related to the application program occurs (*col.6, lines 1-25 and fig.6*).

12. **As to claim 8;**

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Budge teaches the video program runs in a window created through the operating system and related to a window of the application program created through the operating system (*fig.6 and associated text*).

13. **As to claim 9:**

Refer to claim 20 above for rejection.

14. **As to claim 10:**

Budge teaches the video program comprises, among other things, a video player program (*e.g., the video e-mail player software; col.6, lines 1-19*).

15. **As to claim 11:**

Budge teaches the video program comprises, among other things, an audio-and-video program (*e.g., "video e-mail" contains audio and video; col.1, lines 38-55 and fig.6*).

16. Claims 3-7 and 15-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Budge** in view of **Bates** as applied to claims 12 above and further in view of **Poreh et al.** (U.S. 5,889,518)

17. **As to claim 15:**

- a. The combination of Budge and Bates does not explicitly teach subclassing into a window.
- b. Poreh teaches subclassing into a window (*e.g., subclassing the selected window; col.9, lines 33-44 and fig.6*).

- c. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Poreh and Budge as modified by Bates because Poreh's teaching would have provided the capability for gaining control over the application's window object.

18. **As to claim 16:**

- a. The combination of Budge and Bates does not explicitly teach hooking into a window.
- b. Poreh teaches hooking into a window (*e.g., GUI API function hooking; col.9, lines 1-32 and fig.6*).
- c. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Poreh and Budge as modified by Bates because Poreh's teaching would have provided the capability for gaining control over the application's window object.

19. **As to claim 17:**

- a. The combination of Budge and Bates does not explicitly teach employing a customization mechanism.
- b. Poreh teaches employing a customization mechanism(*e.g., windows customization; col.7, lines 6-30 and fig.4*).
- c. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Poreh and Budge as modified by Bates because Poreh's teaching would have provided the capability for allowing the user to modify any window attributes of the selected window.

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20. **As to claim 18:**

- a. The combination of Budge and Bates does not explicitly teach employing application programming interfaces.
- b. Poreh teaches employing application programming interfaces (*e.g., API functions; col.9, lines 1-32*).
- c. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Poreh and Budge as modified by Bates because Poreh's teaching would have provided the capability for controlling the processes of the graphical user interface.

21. **As to claims 3-6:**

Note the rejection of claims 15-18 above. Claims 3-6 are the same as claims 15-18, except claims 3-6 are systems claims and claims 15-18 are method claims.

22. **As to claim 7:**

- a. The combination of Budge and Bates does not explicitly teach modifying contents of a window.
- b. Poreh teaches the video program modifies contents of a window of the application program created through the operating system (*col.7, lines 6-30 and fig.4*).
- c. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Poreh and Budge as modified by Bates because Poreh's teaching would have provided the capability for allowing the user to modify any window attributes of the selected window.

Response to Arguments

23. Applicant's arguments filed 23 September 2005 have been fully considered but they are not persuasive.
24. In the remarks, Applicant argued in substance that Budge does not teach a predetermined application program and an audio or video program that is separate from the predetermined application program.
25. Examiner respectfully traverses Applicant's remarks.
26. Budge teaches two separate programs: a predetermined application program (*e.g., operating system software; col.3, lines 16-42*) and an audio or video program *e.g., video e-mail software 50 which provides for the creation of video e-mail messages and the transfer of those messages; col.3, lines 16-42*). The scope of the claimed “a predetermined application program” clearly transcends the more narrow scope that Applicant attempts to impute through argument. Claimed subject matter, not the specification is the measure of the invention. Limitations in the specification cannot be read into the claims for the purpose of avoiding the prior art, *In re Self*, 213 USPQ 1 (CCPA 1982), *In re Priest*, 199 USPQ 11 (1978). The recited “a predetermined application program” is clearly subject to a broad interpretation as detailed in the rejections maintained above. The Examiner has a duty and responsibility to the public and to Applicant to interpret the claims as broadly as reasonably possible during prosecution. *In re Prater*, 415 F.2d 1 393, 1404-05, 162 USPQ 541, 550-51 (CCPA 1969). During patent examination, the pending claims must be “given their broadest reasonable

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interpretation consistent with the specification.” In re Hyatt 21 1 F.3d 1367, 1372, 54 USPQ2d 1664, 1667 (Fed. Cir. 2000).

27. Applicant is advised that they are responsible for the entire contents of the cited references and relevant passages other than those cited by the Examiner should be addressed accordingly.

Conclusion

28. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).
29. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Contact Information

30. Any inquiry or a general nature or relating to the status of this application should be

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directed to the TC 2100 Group receptionist: (571) 272-2100.

31. Any inquiry concerning this communication or earlier communications from the examiner should be directed to VAN H. NGUYEN whose telephone number is (571) 272-3765. The examiner can normally be reached on Monday-Thursday from 8:30AM - 6:00PM. The examiner can also be reached on alternative Friday.
32. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, WILLIAM THOMSON can be reached at (571) 272-3718.
33. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.
34. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any response to this action should be mailed to:

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